



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

ORTHOTEXAS PHYSICIANS AND SURGEONS  
4780 N JOSEY LANE  
CARROLLTON TX 75010

#### **Carrier's Austin Representative Box**

Box Number 15

#### **Respondent Name**

INDEMNITY INSURANCE CO OF NORTH  
AMERICA

#### **MFDR Date Received**

JANUARY 12, 2012

#### **MFDR Tracking Number**

M4-12-1597-01

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary as Listed on the Table of Disputed Services:** "carrier denied for timely filing- we file electronically and submitted proof of timely filing but they still denied"

**Amount in Dispute:** \$175.93

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** A response was not submitted by the respondent.

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 20, 2011	CPT Code 28300-AS-LT	\$175.93	\$175.93

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for Non-Commission Communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. 28 Texas Administrative Code §134.203 sets out the guidelines for reimbursement of professional medical services provided on or after March 1, 2008.

7. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated September 27, 2011

- 1 – (29) The time limit for filing has expired.
- 1 – Date(s) of service exceed (95) day time period for submission per RULE 408.027 and Bulletin No. B-0037-05A. (F286)

Explanation of benefits dated November 11, 2011

- 1 – (18) Duplicate claim/service.
- 1 – This item was previously submitted and reviewed with notification of decision issued to payor, provider (duplicate invoice). (U301)

### **Issues**

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor submit documentation to support the disputed bills were submitted timely in accordance with Texas Labor Code, Section §408.027 and 28 Texas Administrative Code §102.4?
3. Is the requestor entitled to reimbursement?

### **Findings**

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided.” No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
2. Texas Labor Code §408.027(a) states, in pertinent part, that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.” 28 Texas Administrative Code §102.4(h) states that “Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.” Review of the submitted information finds that the requestor has supported that the provider, filed for reimbursement within 95 days after the date of service. The submitted documentation supports that the payer was the correct insurance carrier, ESIS confirmed on May 2, 2011. Per 28 Texas Administrative Code §102.4(h), documentation submitted by the requestor in this medical fee dispute sufficiently supports that a medical bill was submitted for payment to the insurance carrier within 95 days after the date on which the health care services were provided to the injured employee.
3. Review of the submitted documentation finds that the requestor in this medical fee dispute has timely filed the medical bills with the insurance carrier in accordance with Texas Labor Code §408.027. This respondent's denial reason is not supported. The disputed services will therefore be reviewed per the applicable Division rules and fee guidelines. Per 28 Texas Administrative Code §134.203, the calculations for CPT code 28300-AS-LT is as follows:  
$$\$54.54 \text{ WC CF} / 33.9764 \text{ Medicare CF} \times \$641.95 \text{ Participating Amount} = \$1,030.49$$
  
The total MAR for CPT code 28300-AS-LT billed on April 20, 2011 is \$1,030.49. The requestor's *Table of Disputed Services* lists a disputed amount of \$175.93, therefore, this amount is recommended.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$175.93.

## **ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$175.93 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

_____ Signature	_____ Medical Fee Dispute Resolution Officer	October 22, 2012 Date
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### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**